THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.13107 of 2007

Date:06.07.2007

Between:

Syed Ismail

.. PETITIONER

AND

The State of A.P. and another.

..RESPONDENTS

ORDER:

The petitioner had a son, by name Syed Ejaz Ahammed. He is said to have been born on 26.08.1978. To that effect, the second respondent herein issued a date of birth certificate. It is urged that by the time the birth certificate was issued, the child was not named and later on, it became necessary for obtaining a certificate, which contains the name of the child. For this purpose, the petitioner filed a representation, dated 16.06.2007, to the second respondent for issuance of a birth certificate to his son, duly entering his name in it. The second respondent replied through letter, dated 18.06.2007, stating that such a course is not permissible under Section 14 of the Registration of Birth and Death Act, 1969 (for short 'the Act'). The petitioner assails the same.

The learned counsel for the petitioner submits that there is nothing in the Act, which precludes or prohibits the registering authority to enter the name of the person in the birth certificate even at a subsequent stage. He places reliance upon the Judgment of Gujarat High Court reported in ***DIPIKA ARVINDKUR PANCHOLI vs. STATE OF GUJRAT***[1].

The learned Government Pleader for Medical and Health, on the other hand, submits that the petitioner had not established the identity of the person and in the absence of the same, the second respondent cannot be compelled to enter the name in the birth certificate.

The Act provides for issuance of birth certificate. The certificate in Form No.V provides for entering the name of the person whose date of birth is certified. It is a common practice, particularly, in Indian families that the children are named after performing a ceremony. If the birth certificate is issued before such ceremony, there does not exist an occasion for entering the name. From the Acts and the Rules made there under, it is clear that there is no prohibition for entering the name of the person after due verification. The Gujarat High Court took the view that, it is permissible under the Act and Rules to enter the name of a person even after fifteen years, if the identify of the person is not in dispute.

Petitioner contends that his son intends to go to foreign countries and it has become necessary to enter his son's name in the birth certificate.

Having regard to the provisions of the Act and the judgment of the Gujarat High Court, this Court finds that the second respondent ought to have considered the application of the petitioner and entered the name of his son in the certificate, after satisfying himself as to the identity.

Hence, the writ petition is disposed of, directing the second respondent to consider the application of the petitioner and enter the name of his son in the birth certificate, after satisfying himself that the certificate relates to the person, whose name is sought to be entered. For this purpose, the candidate, whose date of birth is

entered shall appear before the second respondent, file an application and prove his identity. It shall be open to the second respondent to receive any further or additional information or material. This action shall be completed, within a period of four weeks from the date of receipt of making the fresh application, as indicated above. There shall be no order as to costs.

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06.07.2007

kdl

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[1] AIR 2003 GUJRAT 102